MOTION FILED
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(8)

No. 01-1247

IN THE

Supreme Court of the United States

STATE OF WISCONSIN,
Petitioner,

v.

ENVIRONMENTAL PROTECTION AGENCY,
CHRISTIE WHITMAN, and
SOKAOGON CHIPPEWA COMMUNITY,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* OF FIDELITY EXPLORATION & PRODUCTION COMPANY

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Counsel for Fidelity Exploration & Production Company ("Fidelity") respectfully files this motion for leave to file an *amicus curiae* brief on behalf of Fidelity. Fidelity's interest in this matter is vital, as the resolution of the issue presented by the Petition appears likely to determine whether Fidelity can develop its property interests in coalbed natural gas in the Powder River Basin of Wyoming and Montana, which figures prominently in the national energy policy and, therefore, the security plans, of the United States.

Mr. Glenn C. Reynolds, Attorney for the Tribe, did not respond to Fidelity's April 3, 2002, letter requesting consent for the filing of an *amicus* brief. In a telephone conversation the next week, he gave the assurance that he would respond in "ample time" for Fidelity to draft this motion if that became necessary. Mr. Reynolds did not do so. The United States and the State of Wisconsin promptly gave their consent on April 4.

Fidelity submitted an *amicus curiae* brief in support of the Petition in this matter on May 3, 2002, but did not realize the absence of the letter of consent or any response from the Tribe. When the omission of the consent was realized, a telephone call was placed to Mr. Reynolds. He stated that he had neglected to communicate to the undersigned the Tribe's position on the letter requesting consent and that the Tribe would not now grant its consent to the filing of Fidelity's *amicus curiae* brief.

Respectfully submitted,

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